



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2019-0102; FRL-9995-61-Region 7]**

**Air Plan Approval; Missouri; Measurement of Emissions of Air Contaminants**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Missouri State Implementation Plan (SIP) received by EPA on December 11, 2018. The submission revises Missouri's regulation relating to measurement of emissions of air contaminants which allows the director to obtain air contaminant emission data upon request. This final action will amend the SIP to include revisions which are administrative in nature and do not impact the stringency of the SIP. Specifically, these revisions reformat the regulations and add definitions. Approval of these revisions will not impact air quality, ensures consistency between the State and Federally-approved rules, and ensures Federal enforceability of the State's rules.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0102. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Deborah Bredehoft, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7164, or by email at [bredehoft.deborah@epa.gov](mailto:bredehoft.deborah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to the EPA.

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## **I. What is Being Addressed in this Document?**

The EPA is approving revisions to the Missouri SIP that were received by EPA on December 11, 2018. On April 12, 2019, the EPA proposed in the **Federal Register** approval of the SIP submission. See 84 FR 14906. The SIP revision revises Missouri's regulation, Title 10 Code of State Regulations (10 CSR) 10-6.180, "Measurement of Emissions of Air Contaminates", which allows the director to obtain air contaminant emission data from any source responsible for the emissions of air contaminants. The revisions are administrative in nature. They restructure the rule to meet Missouri's updated standard rule organizational format and add definitions specific to the regulatory text of 10 CSR 10-6.180 including air contaminant, director, facility, qualified personnel and source.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from May 1, 2018, to June 7, 2018, and received no comment. In addition, as explained above and in more detail in the technical support document which is part of this docket, the

revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

### **III. The EPA's Response to Comments**

The public comment period on the EPA's proposed rule opened April 12, 2019, the date of its publication in the **Federal Register** and closed on May 13, 2019. During this period, the EPA received three comments, one of which was adverse. The EPA will address the adverse comment. No changes were made to the proposals in this final action after consideration of the adverse comments received.

*Comment 1:* A commenter expressed concern regarding what specifically ensures Federal enforceability of the state's rules and if this is working towards an overreach of the EPA's legal abilities.

*Response 1:* Federal enforceability occurs when a state regulation is submitted by the State and is then approved into the federally approved SIP, and those approved regulations are promulgated as Federal law in the Code of Federal Regulations (see generally 40 CFR 52.1320 for the approved Missouri regulations). Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently

address six criteria pollutants. These pollutants are carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state must submit these regulations and control strategies to the EPA for approval and incorporation into the federally enforceable SIP, and under CAA section 110, the EPA must approve state SIP submissions that meet the requirements of the CAA. The CAA requires each state to have a Federally approved SIP which protects air quality primarily by addressing air pollution at its point of origin.

The EPA does not believe this Federal enforceability of the state's rules is an overreach, because enforcement of the state regulation before and after it is incorporated into the federally approved SIP is primarily a state responsibility. In addition, Congress specifically provided that after a state regulation is part of the federally approved SIP, the EPA is authorized to take enforcement action against violators under CAA section 113 (and public citizens may enforce some approved SIP provisions under CAA section 113).

#### **IV. What Action is the EPA Taking?**

The EPA is taking final action to amend the Missouri SIP by approving the State's request to amend 10 CSR 10-6.180, "Measurement of Emissions of Air Contaminants." Approval of these revisions will ensure consistency between state and Federally-approved rules. The EPA has determined that these

changes will not adversely impact air quality.

## **V. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on



tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action

may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: \_\_\_\_\_

June 28, 2019.

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James Gulliford,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart-AA Missouri**

2. In § 52.1320, the table in paragraph (c) amended by revising the entry "10-6.180" to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Missouri Regulations**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
* * * * *				
<b>Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
* * * * *				
10-6.180	Measurement of Emissions of Air Contaminants	11/30/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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[FR Doc. 2019-14327 Filed: 7/3/2019 8:45 am; Publication Date: 7/5/2019]